

**Agenda No.:** 3  
**Public Hearing:** Variance Request V09-0002  
**Applicant(s):** Robert Richardson/ Doug Connally & Assoc., Inc.

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**DESCRIPTION:**

A request for a variance to the side yard setback for one lot on Sage Ridge Drive, 227.0 ± feet east of Pecan Chase Lane, also described as 2627 Sage Ridge Drive, Pearson Farms Phase 1A, Block A, Lot 25. Neighborhood #41.

**APPLICABLE CODE PROVISION:**

Article I, Section 1  
7.04.A.2 Minimum Side Yard – Seven feet (7'); fifteen feet (15') on corner lot adjacent to a side street.

**REMARKS:**

The applicant is requesting a variance to reduce the side yard set back from seven (7) feet to six (6) feet for a house completed October 31, 2006. The property is zoned PD-180, SF-5, with a minimum seven (7) feet side yard setback.

This request is the result of an error in the placement and/or location of property pins for Lots 25 through 28 in this block. Sotherby Homes constructed four homes based on surveys by Doug Connally and Associates, Inc. The error was detected when the owner of lot 25 was requested to relocate a fence that encroached onto lot 24, a home constructed by Landstar Homes and surveyed by Worth Land Surveying.

Doug Connally and Associates provided a Lot Layout exhibit indicating post-construction conditions revealing that homes on Lots 25, 26, 27 and 28 were placed one foot to the eastern side of the lot, resulting in side yard setbacks of 6 feet and 8 feet. Staff requested the design engineer for the subdivision to verify the corrected Lot Layout exhibit and he (the design engineer) did confirm the one foot error. Staff recommended a replat of Block A to clear the setback violations on these four lots. The correctly placed residence on lot 24 would prevent the elimination of the setback violation on lot 25.

In order to make a finding of hardship and to grant a variance, the Board of Adjustment must determine that:

1. The requested variance does not violate the intent of the Comprehensive Zoning Ordinance or its amendments.

Granting this variance will not violate the intent of the Comprehensive Zoning Ordinance or its amendments. The intent of the Comprehensive Zoning Ordinance is found in the purpose section of the Ordinance. It states:

The zoning regulations and Districts as herein established have been made in accordance with an adopted comprehensive plan for the purpose of promoting health, safety, morals, and general welfare of the City. They have been designed to lessen the congestion in the streets; to secure safety from fire, panic and other dangers; to insure adequate light and air; to prevent the overcrowding of land, to avoid undue concentration of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks, and other public requirements. They have been made with reasonable consideration, among other things, for the character of the district, and its peculiar suitability for the particular uses specified; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City consistent with the Comprehensive Plan.

The seven foot side yard set back is a minimum established to provide separation between structures and provide light, drainage and ventilation. The decrease in separation will not adversely affect fire protection since the residence in question is one story and more accessible with a ladder by emergency personnel than a taller structure. The resulting thirteen foot separation between these structures has not impacted storm drainage.

2. Special conditions of restricted area, shape, topography, or physical features exist that are peculiar to the subject parcel of land and are not applicable to the other parcels of land in the same zoning district.

Staff finds that no special conditions of restricted area, shape, topography, or physical features exist that are peculiar to the subject parcel of land and are not applicable to the other parcels of land in the same zoning district. Although the proposed re-plat will decrease the existing lot width by one foot, the lot width would still be in excess of the minimum lot width required by the zoning district. As shown below, this lot meets or exceeds the minimum lot standards required by the ordinance. The lot is not restricted by any physical features peculiar to this parcel.

The subdivision is zoned Planned Development-180/Single Family-5. The table below provides a comparison between the minimum lot standards required by the

Planned Development SF-5 district and how the applicant's lot compares to the standards regarding the variance requested.

	<b>PD-SF-5 Minimum Lot Standards</b>	<b>Applicant's lot specifications</b>
Lot area	7,000 square feet	7,360 sq. feet approx.
Lot width	60-feet at front building line.	64-feet (±) (after re-plat)
Lot depth	100-feet	115-feet (±)
Front yard	25-feet	25-feet
Rear yard	20-feet	20-feet
Side yards	7-feet/15-feet adj. to street	7-feet /6-feet

3. The hardship is in no way the result of the applicant's own actions.

The owner purchased this lot in good faith based on surveys indicating compliance with the zoning ordinance. The hardship was created by the surveyor.

4. The interpretation of the provisions in the Comprehensive Zoning Ordinance or its amendments would deprive the applicant of rights commonly enjoyed by other properties, in the same zoning district, that comply with the same provisions.

Four lots in Block A of this subdivision have been affected by this surveying error. Three of these lots can be corrected and brought into compliance by the proposed re-plat scheduled to be heard at the February 24<sup>th</sup> Planning & Zoning Commission meeting. If P&Z approves the re-plat, this owner will be granting one foot to the adjacent lot without receiving the benefit of relief from the set back violation.

**RECOMMENDATION:**

Staff recommends denial of this request.

